

108TH CONGRESS  
2D SESSION

# S. 2510

To amend the Internal Revenue Code of 1986 to allow a credit for the installation of hydrogen fueling stations and to exclude earnings from hydrogen fuel sales from gross income.

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## IN THE SENATE OF THE UNITED STATES

JUNE 8, 2004

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit for the installation of hydrogen fueling stations and to exclude earnings from hydrogen fuel sales from gross income.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CREDIT FOR INSTALLATION OF HYDROGEN**  
4 **FUELING STATIONS.**

5 (a) IN GENERAL.—Subpart B of part IV of sub-  
6 chapter A of chapter 1 of the Internal Revenue Code of  
7 1986 (relating to foreign tax credit, etc.) is amended by  
8 adding at the end the following new section:

1 **“SEC. 30B. HYDROGEN-POWERED VEHICLE REFUELING**  
2 **PROPERTY CREDIT.**

3 “(a) CREDIT ALLOWED.—There shall be allowed as  
4 a credit against the tax imposed by this chapter for the  
5 taxable year an amount equal to 50 percent of the amount  
6 paid or incurred by the taxpayer during the taxable year  
7 for the qualified hydrogen-powered vehicle refueling prop-  
8 erty and the installation thereof.

9 “(b) YEAR CREDIT ALLOWED.—The credit allowed  
10 under subsection (a) shall be allowed in the taxable year  
11 in which the qualified hydrogen-powered vehicle refueling  
12 property is placed in service by the taxpayer.

13 “(c) DEFINITION OF QUALIFIED HYDROGEN-POW-  
14 ERED VEHICLE REFUELING PROPERTY.—The term  
15 ‘qualified hydrogen-powered vehicle refueling property’  
16 means any property (not including a building and its  
17 structural components) if—

18 “(1) such property is of a character subject to  
19 the allowance for depreciation,

20 “(2) the original use of such property begins  
21 with the taxpayer, and

22 “(3) such property is for the production, stor-  
23 age, or dispensing of hydrogen fuel into the fuel  
24 tank of a motor vehicle propelled by such fuel.

1       “(d) APPLICATION WITH OTHER CREDITS.—The  
 2 credit allowed under subsection (a) for any taxable year  
 3 shall not exceed the excess (if any) of—

4               “(1) the regular tax for the taxable year re-  
 5 duced by the sum of the credits allowable under sub-  
 6 part A and sections 27, 29, 30, and 30A, over

7               “(2) the tentative minimum tax for the taxable  
 8 year.

9       “(e) BASIS REDUCTION.—For purposes of this title,  
 10 the basis of any property shall be reduced by the portion  
 11 of the cost of such property taken into account under sub-  
 12 section (a).

13       “(f) NO DOUBLE BENEFIT.—No deduction shall be  
 14 allowed under section 179A with respect to any property  
 15 with respect to which a credit is allowed under subsection  
 16 (a).

17       “(g) CARRYFORWARD ALLOWED.—

18               “(1) IN GENERAL.—If the credit amount allow-  
 19 able under subsection (a) for a taxable year exceeds  
 20 the amount of the limitation under subsection (d)  
 21 for such taxable year (referred to as the ‘unused  
 22 credit year’ in this subsection), such excess shall be  
 23 allowed as a credit carryforward for each of the 20  
 24 taxable years following the unused credit year.

1           “(2) RULES.—Rules similar to the rules of sec-  
 2           tion 39 shall apply with respect to the credit  
 3           carryforward under paragraph (1).

4           “(h) SPECIAL RULES.—Rules similar to the rules of  
 5           paragraphs (4) and (5) of section 179A(e) shall apply.

6           “(i) REGULATIONS.—The Secretary shall prescribe  
 7           such regulations as necessary to carry out the provisions  
 8           of this section.

9           “(j) TERMINATION.—This section shall not apply to  
 10          any property placed in service after December 31, 2013.”.

11          (b) CONFORMING AMENDMENTS.—

12                 (1) Section 1016(a) of such Code is amended  
 13                 by striking “and” at the end of paragraph (27), by  
 14                 striking the period at the end of paragraph (28) and  
 15                 inserting “, and”, and by adding at the end the fol-  
 16                 lowing new paragraph:

17                         “(29) to the extent provided in section  
 18                         30B(e).”.

19                 (2) Section 55(c)(2) of such Code is amended  
 20                 by inserting “30B(d),” after “30(b)(3),”.

21                 (3) The table of sections for subpart B of part  
 22                 IV of subchapter A of chapter 1 of such Code is  
 23                 amended by inserting after the item relating to sec-  
 24                 tion 30A the following new item:

“Sec. 30B. Hydrogen-powered vehicle refueling property credit.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to property placed in service in  
 3 taxable years beginning after the date of the enactment  
 4 of this Act.

5 **SEC. 2. EXCLUSION OF EARNINGS FROM HYDROGEN FUEL**  
 6 **SALES.**

7 (a) IN GENERAL.—Part III of subchapter B of chap-  
 8 ter 1 of the Internal Revenue Code of 1986 (relating to  
 9 items specifically excluded from gross income) is amended  
 10 by inserting after section 136 the following new section:

11 **“SEC. 136A. INCOME FROM HYDROGEN FUEL SALES.**

12 “(a) EXCLUSION.—Gross income shall not include in-  
 13 come attributable to the sale of hydrogen fuel sold at retail  
 14 for use in a hydrogen fuel cell vehicle.

15 “(b) DEFINITION OF HYDROGEN FUEL CELL VEHI-  
 16 CLE.—For purposes of this section, the term ‘hydrogen  
 17 fuel cell vehicle’ means a motor vehicle (as defined in sec-  
 18 tion 30(c)(2)) which is propelled by power derived from  
 19 1 or more cells which convert chemical energy directly into  
 20 electricity by combining oxygen with hydrogen fuel which  
 21 is stored on board the vehicle in any form and may or  
 22 may not require reformation prior to use.

23 “(c) TERMINATION.—This section shall not apply to  
 24 income attributable to sales after December 31, 2013.”.

1       (b) CONFORMING AMENDMENT.—The table of sec-  
2 tions for subpart B of part III of subchapter B of chapter  
3 1 of such Code is amended by inserting after the item  
4 relating to section 136 the following new item:

“Sec. 136A. Income from hydrogen fuel sales.”.

5       (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to income received after December  
7 31, 2003, in taxable years ending after such date.

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